

**To:** Benjamin A. Costa([trademark@rcjlawgroup.com](mailto:trademark@rcjlawgroup.com))  
**Subject:** U.S. Trademark Application Serial No. 97824924 - CHILDREN'S CHAMPIONS  
**Sent:** December 05, 2023 10:53:02 AM EST  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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**Attachments**

[5330514](#)  
[5330427](#)

**United States Patent and Trademark Office (USPTO)**  
**Office Action (Official Letter) About Applicant's Trademark Application**

**U.S. Application Serial No.** 97824924

**Mark:** CHILDREN'S CHAMPIONS

**Correspondence Address:**

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COVINA CA 91723  
UNITED STATES

**Applicant:** Wender Weis Foundation for Children

**Reference/Docket No.** N/A

**Correspondence Email Address:** [trademark@rcjlawgroup.com](mailto:trademark@rcjlawgroup.com)

**NONFINAL OFFICE ACTION**

**Response deadline.** File a response to this nonfinal Office action within three months of the “Issue date” below to avoid [abandonment](#) of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the “How to respond” section below.

**Request an extension.** For a fee, applicant may [request one three-month extension](#) of the response deadline prior to filing a response. The request must be filed within three months of the “Issue date” below. If the extension request is granted, the USPTO must receive applicant's response to this letter within six months of the “Issue date” to avoid abandonment of the application.

**Issue date:** December 5, 2023

The assigned trademark examining attorney has reviewed referenced application. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a);

TMEP §§711, 718.03.

## SUMMARY OF ISSUES:

- Refusal - Section 2(d) Likelihood of Confusion
- Requirement - Applicant's Domicile; Clarification Required

### **I. REFUSAL - SECTION 2(d) LIKELIHOOD OF CONFUSION**

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 5330427 and 5330514. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* Information about the registrations was previously provided.

The applied for mark is "CHILDREN'S CHAMPIONS" for "Charitable fundraising services; Charitable fundraising services, namely, raising money and soliciting donations for underprivileged children and families; Charitable fundraising services, namely, raising money and soliciting donations through online and in-person events, donation drives, and campaigns".

The registered marks are:

U.S. Registration No. 5330427 for the mark "CHAMPIONS FOR CHILDREN" for "Charitable foundation services, namely, providing financial assistance for programs and services of others".

U.S. Registration No. 5330514 for the mark "ADVOCARE FOUNDATION CHAMPIONS FOR CHILDREN" and Design for "Charitable foundation services, namely, providing financial assistance for programs and services of others".

The cited registrations are commonly owned.

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the services of the parties. *See* 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the “*du Pont* factors”). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, “not all of the *DuPont* factors are relevant or of similar weight in every case.” *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the relatedness of the compared services. *See In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) (“The fundamental inquiry mandated by [Section] 2(d) goes to the

cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks.”); TMEP §1207.01.

### Comparison of the Marks

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff’d per curiam*, 777 F. App’x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

The applied-for mark "CHILDREN'S CHAMPIONS" conveys a similar connotation and commercial impression as the wording "CHAMPIONS FOR CHILDREN" in or comprising the registered marks.

Marks may be confusingly similar in appearance where similar terms or phrases or similar parts of terms or phrases appear in the compared marks and create a similar overall commercial impression. *See Crocker Nat’l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689, 690-91 (TTAB 1986), *aff’d sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat’l Ass’n*, 811 F.2d 1490, 1495, 1 USPQ2d 1813, 1817 (Fed. Cir. 1987) (holding COMMCASH and COMMUNICASH confusingly similar); *In re Corning Glass Works*, 229 USPQ 65, 66 (TTAB 1985) (holding CONFIRM and CONFIRMCELLS confusingly similar); *In re Pellerin Milnor Corp.*, 221 USPQ 558, 560 (TTAB 1983) (holding MILTRON and MILLTRONICS confusingly similar); TMEP §1207.01(b)(ii)-(iii).

Therefore, the marks are similar.

### Comparison of the Services

A determination of likelihood of confusion is based on the identifications of services in the application and registrations at issue, not on extrinsic evidence of actual use. *See In re Detroit Athletic Co.*, 903 F.3d 1297, 1307, 128 USPQ2d 1047, 1052 (Fed. Cir. 2018) (citing *In re i.am.symbolic, llc*, 866 F.3d 1315, 1325, 123 USPQ2d 1744, 1749 (Fed. Cir. 2017)).

A broader identification of services is presumed to encompass a narrower identification of the same type of services. *See, e.g., In re Solid State Design Inc.*, 125 USPQ2d 1409, 1412-15 (TTAB 2018); *Sw. Mgmt., Inc. v. Ocinomled, Ltd.*, 115 USPQ2d 1007, 1025 (TTAB 2015). In this case, the services in both the application and registrations are essentially provision of financial assistance to others. Thus, applicant’s and registrant’s services are legally identical. *See, e.g., In re i.am.symbolic, llc*, 127 USPQ2d 1627, 1629 (TTAB 2018) (citing *Tuxedo Monopoly, Inc. v. Gen. Mills Fun Grp., Inc.*, 648 F.2d 1335, 1336, 209 USPQ 986, 988 (C.C.P.A. 1981); *Inter IKEA Sys. B.V. v. Akea, LLC*, 110 USPQ2d 1734, 1745 (TTAB 2014); *Baseball Am. Inc. v. Powerplay Sports Ltd.*, 71 USPQ2d 1844, 1847 n.9 (TTAB 2004)).

Additionally, the services of the parties have no restrictions as to nature, type, channels of trade, or classes of purchasers and are “presumed to travel in the same channels of trade to the same class of purchasers.” *In re Vitterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012)

(quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Thus, applicant's and registrant's services are related.

Because the parties' marks are similar and their services are related, registration of the applied-for mark is refused on the basis of likelihood of confusion.

Although applicant's mark has been refused registration, applicant may respond to the refusal by submitting evidence and arguments in support of registration. However, if applicant responds to the refusal, applicant must also respond to the requirement set forth below.

## **II. APPLICANT'S DOMICILE**

**Domicile address cannot be accepted.** Applicant must provide its current domicile street address because the domicile address of record is for a U.S. third-party commercial mail receiving agency (a private business that accepts mail from the U.S. Postal Service on behalf of third parties), as identified by the U.S. Postal Service Coding Accuracy Support System (CASS), which is not an acceptable type of domicile address for a juristic applicant. TMEP §601.01(c)(i). That is, this address does not identify applicant's principal place of business. *See* 37 C.F.R. §§2.2(o)-(p), 2.11(b), 2.189; TMEP §601.01(c)(i). All applications must include an applicant's domicile address. *See* 37 C.F.R. §§2.32(a)(2), 2.189; TMEP §803.05(a).

### **Response option(s)**

**Applicant must provide an acceptable domicile street address;** that is, the location of applicant's headquarters where its senior executives or officers ordinarily direct and control applicant's activities. *See* 37 C.F.R. §§2.2(o)-(p), 2.32(a)(2), 2.189; TMEP §803.05(a).

If applicant cannot provide a domicile street address due to an extraordinary situation, applicant may file a [petition to the Director](#) to request the Director waive this requirement. *See* 37 C.F.R. §§2.146(a)(5), 2.148; TMEP §1708.01. The petition must include the required fee as well as (a) a verified statement of facts explaining the extraordinary situation, and (b) the state, or foreign equivalent, and country of applicant's domicile, to determine whether applicant must be represented by a U.S.-licensed attorney. *See* 37 C.F.R. §§2.11(a)-(b), 2.146(c)(1); TMEP §1708.01. However, filing a petition is not considered a response to an Office action. *See* 37 C.F.R. §2.146(g); TMEP §1705.06. Applicant must still file a timely response to this Office action to avoid abandonment of the application. The response should indicate that a petition has been filed, specify the reason(s) for filing the petition (i.e., to request a waiver of the domicile address requirement), and request suspension of the application pending disposition of the petition. *See* TMEP §§716.02, 716.02(l), 1705.06.

### **Instructions for responding**

**To provide applicant's domicile street address.** After opening the correct Trademark Electronic Application System (TEAS) response form and entering the serial number, (1) answer "yes" to question 5 and click "Continue;" (2) on the "Owner Information" page, in the "Domicile Address" fields, uncheck the box stating the domicile and mailing address are not the same; and (3) below the checkbox provide applicant's domicile street address. The address provided in the "Domicile Address" fields will be hidden from public view. However, any street address listed in the "Mailing Address" fields will be publicly viewable.

## **RESPONSE GUIDELINES**

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the issues in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

**How to respond.** File a [response form to this nonfinal Office action](#) or file a [request form for an extension of time to file a response](#).

/Betty Chang/  
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## **RESPONSE GUIDANCE**

- **Missing the deadline for responding to this letter will cause the application to [abandon](#).** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) [system availability](#) could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email [TEAS@uspto.gov](mailto:TEAS@uspto.gov).
- **[Responses signed by an unauthorized party](#) are not accepted and can cause the application to [abandon](#).** If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

5330514



## Champions For Children

<b>Word Mark</b>	ADVOCARE FOUNDATION CHAMPIONS FOR CHILDREN •
<b>Goods/Services</b>	IC 036 US 100 101 102 Charitable foundation services, namely, providing financial assistance for programs and services of others.
<b>Register</b>	PRINCIPAL
<b>Serial Number</b>	86952802
<b>Filing Date</b>	2016-03-25T00:00:00
<b>Original Filing Basis</b>	1b
<b>Current Filing Basis</b>	1a
<b>Publication Date</b>	2017-01-31
<b>Registration Number</b>	5330514
<b>Date Registered</b>	2017-11-07
<b>Owner</b>	(REGISTRANT) AdvoCare Foundation (NON-PROFIT CORPORATION; TEXAS, USA); 2800 Telecom Parkway, Richardson, TEXAS 75082, UNITED STATES
<b>Type of Mark</b>	SERVICE MARK
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Code</b>	021101, 141102
<b>Description of Mark</b>	<ul style="list-style-type: none"><li>• Color is not claimed as a feature of the mark.</li><li>• The mark consists of a lever lock key laying horizontally with a heart shaped top. Beneath the key is the stylized word "ADVOCARE", beneath that the word "FOUNDATION" and beneath that are the words "CHAMPIONS FOR CHILDREN".</li></ul>

<b>Disclaimer</b>	"FOUNDATION" AND "CHILDREN"
<b>Live Dead Indicator</b>	LIVE
<b>Status</b>	REGISTERED
<b>Attorney of Record</b>	Joel R. Feldman,

**Print:** December 5, 2023 10:32 AM

5330427

# CHAMPIONS FOR CHILDREN

<b>Word Mark</b>	CHAMPIONS FOR CHILDREN •
<b>Goods/Services</b>	IC 036 US 100 101 102 Charitable foundation services, namely, providing financial assistance for programs and services of others.
<b>Register</b>	PRINCIPAL
<b>Serial Number</b>	86915326
<b>Filing Date</b>	2016-02-22T00:00:00
<b>Original Filing Basis</b>	1b
<b>Current Filing Basis</b>	1a
<b>Publication Date</b>	2017-01-31
<b>Registration Number</b>	5330427
<b>Date Registered</b>	2017-11-07
<b>Owner</b>	(REGISTRANT) AdvoCare Foundation (NON-PROFIT CORPORATION; TEXAS, USA); 2800 Telecom Parkway, Richardson, TEXAS 75082, UNITED STATES
<b>Type of Mark</b>	SERVICE MARK
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Disclaimer</b>	"CHILDREN"
<b>Live Dead Indicator</b>	LIVE
<b>Status</b>	REGISTERED
<b>Attorney of Record</b>	Joel R. Feldman





## United States Patent and Trademark Office (USPTO)

### USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued  
on December 5, 2023 for  
**U.S. Trademark Application Serial No. 97824924**

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

### GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney](#)**. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.